

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.4020 OF 2005

Kulwantsingh Dilipsingh Bhela & Anr. ...Applicants

Vs.

The State of Maharashtra ...Respondent

Shri. A.P. Mundargi for the Applicants.

Ms.M.M.Deshmukh A.P.P. for the Respondent.

CORAM : A. S. OKA, J.

DATED : JULY 06, 2005.

P.C.:

1. An offence has been registered with Nasik Panchwati Police Station, Nasik for offences punishable under sections 3 and 7 of the Essential Commodities Act.

2. The case of the prosecution is that an information was received that the two rooms and a shed on land bearing Gat No.83 at Adgaon which is owned by the Applicant No.2 were being used for storing blue kerosene. The District Supply Officer and other Officers visited the site on 13th June 2005 at 10.30 in the night. At that time one Raju Eknath Gagre who was claiming to be Manager was present there. In the F.I.R. filed by the Inspector in the Office of District Supply Officer it is stated that the said Raju contacted the Applicant No.2 on cell phone. The

Applicant No.2 informed him that the kerosene was kept by one Manoj and infact the Applicant No.2 provided cell phone number of Manoj. Accordingly, Manoj was contacted and Manoj by using another cell phone contacted District Supply Officer and stated that he will come to the site within ten minutes. An offence was registered. The Applicants alongwith four others were shown as accused including the said Manoj and the said Raju. The allegation is that blue kerosene was unauthorisedly stored in premises without there being licence.

3. The case of the Applicants is that they have executed Tenancy Agreement inrespect of area of two Ares out of the land bearing Gat No.82 and Gat No.83 of village Adgaon in favour of one Manoj Arundas Malwani. A xerox copy of alleged Tenancy Agreement is placed on record which discloses that area of two Ares was let out for the purposes of errecting a shed thereon for the purposes of storage of oil required to be used in vehicles.

4. The Application for Anticipatory Bail was rejected by the Additional Sessions Judge. The Additional Sessions Judge has referred to the agreement relied upon by the Applicants. The learned Additional

Sessions Judge, however, without assigning any reason observed that he was not giving much importance to the said agreement.

5. It is not in dispute that after ad-interim order dated 29th June, 2005 was passed, the Applicants have attended the concerned Police Station and their statements have been recorded. Even the statement of the Inspector from the office of District Supply Officer who filed F.I.R. noted that the Applicant No.2 informed that the kerosene found in the premises was of one Manoj and infact he gave cell phone number of said Manoj who was immediately contacted and the said Manoj assured to come to the spot in ten minutes. As per the allegation of the prosecution, 47 barrels containing blue kerosene were found stored in the premises without their being any permit/licence. The xerox copy of Tenancy Agreement executed by the Applicants in favour of the said Manoj is placed on record. Considering the aforesaid factors, this is not a case where custodial interrogation of the Applicants is required and hence, the Applicants are entitled to be enlarged on Anticipatory Bail.

6. Hence, I pass the following order:

: O R D E R :

i) In the event of the arrest of the Applicants in connection with C.R. NO.II 3091 of 2005 of Panchavati Police Station, Nashik, the Applicants shall be enlarged on bail subject to furnishing P.R. Bond in the sum of Rs.15,000/- each with two local sureties in the like amount.

ii) The Bail is granted subject to condition that the Applicants will attend the concerned Police Station as and when called upon to do so.

iii) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade him from disclosing such facts to the Court or to the Police Officer/Investigating Agency. The Applicants shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the Applicants only till the chargesheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in the above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE